

Present:

Mr. Justice Obaidul Hassan

And

Mr. Justice S M Kuddus Zaman

**In the Supreme Court of Bangladesh
High Court Division
(Criminal Appellate Jurisdiction)**

CRIMINAL APPEAL NO.12374 OF 2018

IN THE MATTER OF:

An application for bail in a pending appeal.

AND

IN THE MATTER OF:

Begum Khaleda Zia, Chairperson,
Bangladesh Nationalist Party (BNP),
Former Prime Minister of Bangladesh,
wife of late President Ziaur Rahman

.....**Convict appellant-petitioner.**

-Versus-

The State and another

.....**Respondent-opposite parties.**

Mr. Khandker Mahbub Hossain, Senior
advocate with Mr. Zainul Abedin,
Senior advocate, Mr. AM Mahbub
Uddin, Advocate, Mr. Kayser Kamal,
Advocate & Mr. Muhammad Nawshad
Zamir, Advocate

.....*For the Convict-appellant-petitioner.*

Mr. Mahbubey Alam, Attorney General
with Mr. Momtaz Uddin Fakir,
Additional Attorney General, Mr.
Biswajit Debnath, Deputy Attorney
General & Ms. Yesmin Begum Bithi,
Deputy Attorney General... For the State

Mr. Md. Khurshid Alam Khan,
AdvocateFor the ACC

The 31st day of July, 2019

This is an application for bail in a pending appeal for the convict-appellant namely, Begum Khaleda Zia.

The convict-appellant-petitioner has been convicted under sections 5(2) of the Prevention of Corruption Act, 1947 and sentenced to suffer rigorous imprisonment for 7(seven) years with a fine of ten lacs, in default to suffer simple imprisonment for six months more, and confiscate the disputed property.

The prosecution case, in brief, is that on 08.08.2011 Tejgaon Police Station Case No.15 dated 08.08.2011 was initiated against four persons including the convict appellant under section 5(2) of the Prevention of Corruption act, 1947 and section 109 of the Penal Code alleging inter alia, that during her tenure from 2001-2006 as a Prime Minister of Bangladesh she had formed a trust, namely "Shaheed Ziaur Rahman Charitable Trust." The address of the residence of the accused No.1 being 6 Shaheed Moinul Road, Dhaka was used as the address of the said trust. The convict appellant-petitioner herself was the first Managing Trustee of the said trust. The convict-appellant-petitioner opened a Savings Account No.34076165 A total amount of Tk.1,35,00,000.00 was deposited in the said account through five pay orders issued by Shahjalal Bank Limited, Dhandmondi Branch on 16. 01.2005. The said Pay Orders in favour of Ziaur Rahman Charitable Trust were issued at the instance of

Metro-Makers and developers Limited. However, on enquiry the Managing Director Mr. AFM Zahangir of Metro Makers and Development Limited denied having ever made any payment or donation to or in favour of Ziaur Rahman Charitable Trust. He had further stated that the deposit in the account of Ziaur Rahman Charitable trust was in fact made by Mr. Monirul Islam, Private Secretary to the then Mayor Dhaka City Corporation using the name of his company. The said Monirul Islam stated that the money was given to him by Mr. Abul Haris Chowdhury, Political Secretary to the Prime Minister for depositing in the account of the Ziaur rahman Charitable Trust. Besides, various sums of money including Tk.27,00,000.00 was deposited on 18.01.2005 and on various other dates in the said trust account by Md. Ziaul Islam, Private Secretary to the Political secretary to the Prime Minister. The said Ziaul Islam informed that the money was given to him by Mr. Abul Haris Chowdhury, and he deposited the money in the trust account under his instruction. During inquiry, it revealed that in the period between 13.01.2005 and 19.01.2005 various sums of money to the tune of Tk.6,18,89,529.00 were withdrawn from various BNP accounts and the same was deposited in the trust account. No money was spent out of the trust account for any charitable purpose, rather the accused no.1 under the

disguise of the trust had spent money for purchasing 42 Khata land in Kakrail at the cost of Tk.6,52,07,000.00 from Mrs. Suriya Khan and the deed being No.404/2005 dated 19.01.2005 was registered in Sutrapur Sub-Registrar Office. Apart from the money deposited form various BNP accounts, other funds deposited in the trust account did not have a valid souce as such the appellant petitioner along with other accused persons committed an offence under section 5(2) of the Prevention of Corruption Act, 1947 and section 109 of the Penal Code.

Mr. Khandaker Mahbub Hossain, the learned Counsel submits that in considering bail to a convict person in a criminal appeal the Court has to take into account the gravity of the offence, quantum of sentence and possibility of misuse of the privilege of bail. The appellant has been inflicted 7(seven) years R.I. and fine which is the highest sentence under Section 5(2) of the Prevention of Corruption Act, 1947. As such there is no scope for further enhancement of sentence. In the meantime the appellant has served out about two years. On above premises, the learned advocates pray for bail of the appellant.

Mr. Zainul Abedin, the learned Counsel for the appellant submits that the charge of this case is defective and there was no sufficient evidence on record justifying conviction and sentence of the appellant. The appellant is

an elderly women of 74 years of age and she is suffering from various life threatening diseases and at present she is admitted into a hospital. The appellant has been the Prime Minister of this country on three terms and leader of the opposition as well. As such there is no possibility that she would flee if she is granted bail.

Mr. Mahbubey Alam, the learned Attorney General submits that there is no apparent infirmity in the impugned judgment and order of conviction and sentence which was pronounced by a competent court after full trial and the appellant had every opportunity to defend herself in the same. Since both the parties of this appeal are well acquainted by now about the materials of this appeal we can ensure expeditious hearing of the appeal. Since the appellant is an ex-Prime Minister and her conviction and sentence is based on legal evidence without any infirmity and her custody in connection with this appeal is short she cannot be granted bail at this point of time.

Mr. Md. Khorshid Alam Khan, the learned advocate for the ACC submits that in fact at every stage of this case the defence has challenged the proceedings including the charge before this court as well as before the Appellate Division and the same were found to be correct and lawful. As such there is no scope for disputing the legality of the charge or the proceedings at this stage. The learned

advocate further submits that after a full trial which took a considerably long time the appellant has been convicted and sentenced by a competent court and during the trial period the appellant had been on bail. There is no apparent infirmity in the impugned judgment and order of conviction and sentence. The custody of the appellant in connection of this case is very short as well. Since she is an Ex-Prime Minister of this country the court needs to take a stringent view not a lenient one while considering her petition for bail. The learned advocate prays for rejection of the petition for bail.

Heard the submissions of the learned advocates for both sides and considered the materials on record.

It turns out from the records that at every stage of the proceedings of this case including framing of charge legality was challenged before this Court as well as before the Appellate Division and those were found to be flawless and lawful.

We have gone through the impugned judgment and order of conviction and sentence but did not notice any apparent or glaring infirmity in the same.

Taking into account the gravity of the offence allegedly committed by a person no less than the Ex-Prime Minister of the Country the trial Court has inflicted highest sentence available under the relevant law.

The learned Attorney General has assured us as to his readiness for expeditious hearing of this appeal, as such there is no possibility of delay in hearing the appeal on merit.

In above view of the mater we do not find any cogent reason for granting the appellant bail at this point of time. Accordingly, the application for bail is **rejected**.